

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 15-0484V

Filed: September 18, 2015

Unpublished

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LOGAN OSBERG,

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Petitioner,

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v.

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SECRETARY OF HEALTH

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AND HUMAN SERVICES,

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Respondent.

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*Andrew Downing, Esq., Van Cott & Talamante, PLLC, Phoenix, AZ, for petitioner.*

*Justine Walters, Esq., U.S. Department of Justice, Washington, DC for respondent.*

### **RULING ON ENTITLEMENT**<sup>1</sup>

**Dorsey**, Chief Special Master:

On May 12, 2015, Logan Osberg filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,<sup>2</sup> [the “Vaccine Act” or “Program”]. Petitioner alleges that he suffered a shoulder injury related to vaccine administration (SIRVA) caused by the influenza vaccine he received in his left arm on November 13, 2014. Petition at 1. Petitioner further alleges that he continues to suffer the residual effects of his injury. *Id.*, ¶¶ 10-11. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On September 18, 2015, respondent filed her Rule 4(c) report in which she concedes that petitioner “is entitled to compensation for the left shoulder injury he sustained following his receipt of the flu vaccination on November 13, 2014.” Respondent’s Rule 4(c) Report at 1. “[R]espondent has concluded that petitioner’s left

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<sup>1</sup> Because this unpublished ruling contains a reasoned explanation for the action in this case, I intend to post it on the United States Court of Federal Claims’ website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, § 205, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2006)). In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

<sup>2</sup> National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2006).

shoulder injury is compensable as a 'caused-in-fact' injury under the Act." *Id.* at 4. Furthermore, respondent agrees that all statutory and jurisdictional requirements have been met. *Id.*

**In view of respondent's concession and the evidence before me, I find that petitioner is entitled to compensation.**

**s/Nora Beth Dorsey**

Nora Beth Dorsey  
Chief Special Master